

REMARKS

The remainder of this Amendment is set forth under appropriate subheadings for the convenience of the Examiner.

Amendment to the Specification

The related applications paragraph has been updated to reflect the status of the applications cited therein. No new matter has been added.

Rejection of Claims 1-12 Under Obviousness-Type Double Patenting

Claims 1-12 are rejected under obviousness-type double patenting as being unpatentable over Claims 1-11 of U.S. Patent No. 6,403,759 B2. Applicants enclose herewith a Terminal Disclaimer in which the owner, Duke University of 100 percent interest in the instant application thereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. § 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior U.S. Patent Nos. 5,770,645, 6,232,434, 6,403,759 B2 and 6,673,891 B2. The owner thereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns. U.S. Patent Nos. 5,770,645, 6,232,434 and 6,673,891 B2 were added to the Terminal Disclaimer in an abundance of caution.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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